

**COMMENTS ON THE ILLINOIS POWER AGENCY'S
AUGUST 16, 2010 DRAFT PROCUREMENT PLAN
OF THE PEOPLE OF THE STATE OF ILLINOIS
BY ATTORNEY GENERAL LISA MADIGAN
SEPTEMBER 15, 2010**

The People of the State of Illinois by Attorney General Lisa Madigan submit the following Comments on the Illinois Power Agency's Draft Procurement Plan dated August 16, 2010. The People will address the overall procurement plan and future treatment of long term renewable contracts.

1. The Illinois Power Agency's Draft Procurement Plan Appropriately Continues the Procurement Approach Used in Past Years For Eligible Retail Customers.

The Draft Procurement Plan dated August 16, 2010 ("the Plan") generally continues the procurement approach adopted in prior years, including the use of a three year ladder strategy and the procurement of standard wholesale monthly products for on- and off-peak periods. This overall approach has resulted in reasonable electricity prices over the past few years, and the People support the continuation of this approach to procurement.

Recognizing the fact that market prices have decreased in the recent past, the Plan now includes a provision to adjust procurement amounts in the event that the current price of energy is less than the price already in the procurement portfolio. At page 17 of the Plan authorizes up to 10% in optional procurements "to mitigate the risk of price decline." This provision provides flexibility and the opportunity to benefit consumers in the event of further price decreases.

There appears to be a minor error in the Attachment E to the Plan. The table at page 40 of Attachment E, Appendix B-1, is identical to the table in the 2009 Procurement Plan,

Attachment C. Assuming this is an error, the values should be updated to reflect the 2010 ComEd forecast.

2. Although Long Term Renewable Contracts Are Not Included In the Plan, Future Procurement Plans Submitted After The Implementation Of The Pending Long Term Renewable Procurement Should Include Additional Long Term Renewable Procurement.

The Plan provides for the acquisition of renewable resources to comply with Section 1-75(c) of the Illinois Power Agency Act, reflecting both the statutory quantities established in Section 1-75(c)(1) and price constraints contained in Section 1-75(c)(2). See pages 36-39 for Ameren and 52-55 for ComEd. 20 ILCS 3855/1-75(c)(1) and (2). The Plan does not specifically provide for long term contracts for renewable resources or otherwise address whether the renewable resources contracts to meet the statutory targets, consistent with the cost constraints, should be obtained through long term or short term contracts.

In discussing the effect of the maximum cost cap for meeting renewable resource goals at pages 37 (Ameren) and 53 (ComEd), the Plan states: “In the event that the cost cap is met, purchases of renewable energy resources are to be curtailed, leaving the annual volumetric goal unmet.” This language is ambiguous and could imply that renewable energy resources already under contract might not be purchased by the IPA, or that the amount to be purchased under existing contracts might be reduced in contravention of contract terms. The People believe that the language should be modified to clarify that existing contract amounts will not be curtailed. The language should be modified to provide: “In the event that the cost cap is met, purchases of renewable energy resources in excess of existing contract amounts would be limited or curtailed, leaving the annual volumetric goal unmet.”

Concurrently with this review, the IPA is holding workshops and meetings to develop appropriate long term contract terms and to design the procurement of long term contracts for 2.5% of the renewable resources target. The People recognize that the terms and conditions of the pending long term renewable resources are not yet completed, and that it could be premature to establish a long term renewable plan until the current process is complete. After the terms of the contracts are established and the procurement is administered, the parties will be in a position to assess the strengths and weaknesses of that process and improve upon it going forward. In the meantime, the use of short term renewable resource contracts is acceptable.

That said, however, in order to assure development of a vibrant renewable resources market, the IPA should plan long term renewable resource procurements on a *regular and predictable basis*. The Public Utilities Act provides that the “Illinois Power Agency shall prepare a procurement plan by August 15th of each year, or such other date as may be required by the Commission.” 220 ILCS 16-111.5(d)(2). Although this Plan includes data for five years, the IPA is obligated to submit a procurement plan each year, and provisions for long term renewable contracts should be included in the Plan that can incorporate the lessons learned from the pending long term renewable resource procurement process.

3. Conclusion

With the minor recommendations stated above, the People support the Plan as prepared by the IPA.

Respectfully submitted,

The People of the State of Illinois
By LISA MADIGAN, Attorney General

Susan L. Satter, Sr. Assistant Attorney General
Public Utilities Bureau
100 West Randolph Street, Floor 11
Chicago, Illinois 60601
Telephone: (312) 814-1104
Fax: (312) 814-3212
Email: ssatter@atg.state.il.us